

IN THE SENATE OF THE UNITED STATES.

MAY 22, 1896.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. R. 138.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. 138) for the relief of James P. Veach, having had the same under consideration, find the facts to be as stated in Senate Report No. 1027, Fifty-third Congress, third session, which is hereby adopted and made a part of this report. Your committee recommend the passage of the joint resolution.

The report referred to is as follows:

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. 49) for the relief of James P. Veach, have had the same under consideration, and report:

Upon petition and proof presented to the President of the United States, James P. Veach, a citizen of the United States, now a resident of Terre Haute, Ind., received a full and unconditional pardon, in which is recited the facts in his case, as follows:

Benjamin Harrison, President of the United States of America, to all to whom these presents shall come, greeting:

Whereas James P. Veach, on the 5th day of September, 1863, at the age of 15 years, enlisted in Company I, One hundred and nineteenth Regiment (Seventh Cavalry), of Indiana, to serve for three years or during the war; and

Whereas it is represented that he left his command without authority in October, 1865, he thinking that the war was over, was arrested at New Orleans, returned to his command in Texas, was tried by a court-martial, found guilty, and sentenced to be confined to hard labor for two years and forfeit all pay and allowances due or to become due, and to be dishonorably discharged; and

Whereas while undergoing said sentence of confinement in the jail at Austin, Tex., he escaped, and reached Indiana in December, 1866, in which State he has lived for the last twenty years, save a few months passed in Illinois; and

Whereas it is represented by the oaths of George D. Salyer, late sergeant of said company and regiment and other members thereof, that said Veach was of good moral character while in the Army and has borne a good reputation since; and

Whereas Executive clemency is asked for on his behalf because of his youth at the date of enlistment, his honorable service during the war, and his good character as a citizen ever since:

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant unto the said James P. Veach a full and unconditional pardon.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington this 11th day of February, A. D. 1893, and of the Independence of the United States the one hundred and seventeenth.

[UNITED STATES SEAL.]

BENJ. HARRISON.

By the President:

JOHN W. FOSTER, *Secretary of State.*

Received and accepted by me, at Terre Haute, Ind., this 17th day of February, 1893.

JAMES P. VEACH.

A certified copy of this pardon, and of its acceptance, was filed with the Secretary of War, together with an application for an honorable discharge. To this application, under date of March 8, 1893, the Secretary replied:

\* \* \* "The pardon granted to this man by the President does not authorize or empower this Department to remove the charge of desertion against him, or to issue to him an honorable discharge."

Prior to this, when the President had referred to him certain papers in the case, under date of March 25, 1892, the Secretary had explained:

\* \* \* "The conviction of this soldier of desertion by a general court-martial is a legal bar to any action by the War Department so far as the desertion of which he was convicted was concerned; and, as he finally deserted while in confinement, the Department can take no action looking to a removal of that charge of desertion under existing law" (vide sec. 7, of act of Congress approved March 2, 1889).

Upon a review of the facts and the law in this case, it appears evident to your committee—

1. That James P. Veach, having served faithfully for more than six months, and until after the close of the war, would have been entitled to have the charge of desertion removed and to receive an honorable discharge under the act of March 2, 1889, except for the bar of section 7 of the act; but having been convicted and sentenced by a court-martial, he could obtain no relief from the War Department.

2. That Veach, having escaped from custody before the sentence of the court was inflicted upon him, was, up to the date of his pardon, in the position of an escaped convict, and was therefore liable to arrest and imprisonment at any time; and that thus resting under an unexecuted sentence he was clearly within the purview of an Executive pardon.

3. That Veach, having received from the President a full and unconditional pardon, was thereby relieved of his military offense, and all of its penal consequences, and was restored to all the rights he possessed before desertion, as fully in every respect as though he had never committed the offense, including the right to an honorable discharge. (Decision Supreme Court U. S., Wall., vol. 4, p. 340, and authorities there quoted.)

The only question, therefore, is as to the authority and power of the Secretary of War to make necessary record, and to issue the necessary certificate; and as the Secretary thinks that the President's pardon does not per se authorize him to do this, your committee recommend the passage of this joint resolution. This resolution does not require the Secretary to change any fact of history, but to record additional facts which show the soldier's right to an honorable discharge, and then to act upon this additional record.

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